Lobbyist's Memo Blocks Acting Attorney General

Kleindienst Job Hinges on ...

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What did Dita Davis Beard, a bold and accomplished Washington lobbyist, and John Newton Mitchell, then the chief law enforcement officer of the United States, really say to each other at the Kentucky Governor's Mansion after last year's Kentucky Derby?

Why did a trust-busting Assistant Attorney General decide to settle some of the most important merger cases of the century after getting a report prepared in two days by the friend and associate of a White House aide?

How did the International Telephone and Telegraph Corp., whose 1970 revenues were almost as large as the gross national product of Greece, decide to "guarantee" $400,000 to the 1972 Republican National Convention? Did it expect anything in return?

It is not ordinarily on questions like this that Senate confirmation of a Cabinet nominee hinges.

But until they and perhaps a dozen other, simi-

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larly bizarre questions can be answered, say key members of the Senate, Acting Attorney General Richard G. Kleindienst may not be able to drop the uncomfortable first word from his title.

Nor will anyone know whether the Senate Judiciary committee—for the past ten days and at least another ten—is engaged in a "waste of taxpayers' money" (in the words of Mitchell's wife Martha) or in the unraveling of a hot political scandal.

It was no secret that the Justice Department settled its three enormous antitrust suits against ITT last summer, forcing the conglomerate to give up $1 billion worth of subsidiaries but letting it keep the prize Hartford Fire Insurance Company.

And the Republican Party made no effort to hide the fact that its convention would go to San Diego this year primarily because a civic committee there could, if necessary, raise two-thirds of the $600,000 required to host it from a single corporation, ITT.

Choice of the GOP convention site and settlement of the antitrust suits hap-

See ITT, A18, Col. 1

Sen. Cook asks closed session on ITT case. A18.

Answer to ITT Puzzle

ITT, From A1

pened within a week of each other, but only the most cynical outsiders made any connection at first.

Then, two weeks ago, syndicated columnist Jack Anderson published an ITT intra-office memorandum by Mrs. Beard which, in the most cynical and direct language available, insisted upon that connection.

"I am convinced, because of several conversations with Louie (former Kentucky Gov. Louie B. Nunn) re Mitchell, that our noble commitment has gone a long way toward our negotiations on the mergers eventually coming out as Hal (ITT president Harold Geneen) wants them," she wrote—and has never denied writing.

"Certainly the President has told Mitchell to see that things are worked out fairly. . . . If (the convention guarantee) gets too much publicity, you can believe our negotiations with Justice will wind up shot down. Mitchell is definitely helping us, but cannot let it be known," said the memo, dated June 25, 1971.

Anderson followed with a column revealing that, despite telling Democratic National Chairman Lawrence F. O'Brien and ITT settlement was "handled and negotiated exclusively" by Richard W. McLaren, former head of the Antitrust Division, Kleindienst had met privately five times with an ITT director.

The Kleindienst nomination, which was within hours of nearly unanimous approval on the Senate floor, was stopped like a car at a police roadblock.

Requests New Hearings

Kleindienst requested new hearings by the Judiciary Committee to dispel any "cloud" over his head when he officially assumes the Cabinet post.

After having his "recollection refreshed" on a number of key points, Kleindienst recounted not only how the five meetings with tbe ITT director came about, but also a number of other instances in which he took part in Justice Department decisions concerning the conglomerate.

In what Anderson unflatteringly calls a "semantic tango," however, the Acting Attorney General insists that he never "negotiated" or 'handled," but only discussed and thought and did other thoroughly responsible things.

After 10 days, ironically, Kleindienst's name and nomination have now been almost lost in the excitement.

In the meantime, the Senlearned that Mrs. Beard's ate and the public have doctor and the ex-governor drinks too much, that the of Kentucky think she doctor and his wife have been under investigation for possible Medicare fraud, and that Brit Hume, an associate of columnist Anderson, spent an extraordinary evening listening to her describe her bosses with four-letter words.

Not to mention that the lieutenant governor of California had a fuzzy memory for details of how tbe upcoming convention was brought to his state, that New York investment banker Richard J. Ramsden possibly changed the course of antitrust law in return for a $242 consultant fee from the Commerce Department, and that Jack Anderson never pays for news tips.

Mrs. Beard, in a totally unexpected statement from the coronary unit of a Denver osteopathic hospital, has denounced the Senate investigation as an "absurd circus," but nonetheless said she wants to join it.

Under orders from Committee Chairman James O. Eastland (D-Miss.), some of the best cardiologists in the West are being rounded up to figure out whether she should testify from her bed or the witness stand.

The need to hear from Mrs. Beard has become increasingly more apparent, as the committee hears each new version of what she is like and what she did or did not do and say.

Advocates on both sides (if indeed there can be said to be only two sides) acknowledge that much of what is now in the Judiciary Committee record would never be admitted in a court of law.

It has gone from fairly convincing hearsay to fourth-hand recollections of year-old conversations. And, as one weary committee member observed last week, "We don't seem any closer to the truth."

Invitation to Flanigan

The quest for the "truth" has led Eastland to agree reluctantly to "invite" White House adviser Peter M. Flanigan to tell why he recruited Ramsden to advise McLaren on how to evaluate what it was saying about its "financial hardship."

Although Sherman Adams testified before Congress years ago when he was at the center of a political scandal (as the Democrats observed gleefully last Friday), presidential aides don't often make appearances on Capitol Hill these days.

Flanigan is expected to invoke "executive privilege," which would in turn almost certainly anger even senators who are some of Kleindienst's stanchest allies and, thus, sidetrack the issue even further.

The person with one of the largest stakes in the outcome of the inquiry, it has emerged, is McLaren, now a federal judge in Chicago and one easily confirmed by theSenate a few short months ago.

McLaren told The Washington Post, in an interview in the closing days of 1971, that "I think without question we'd have won" the ITT cases in the courts, if they had not been settled.

It now turns out that the Solicitor General, however, the key man in any government appeal to the Supreme Court, says otherwise, and that ITT's own lawyers agree with McLaren.

The former antitrust chief's explanation is that a government victory might not have been in the national interest, since it could have hurt the stock market and the balance of payments. Besides, ITT not only gave up greater assets than any other American business ever had, but it was also banned from future expansive acquisitions and the word went out to other big business giants not to misbehave.

But the other side of that argument is that settled cases cannot be cited as legal precedents and that McLaren, by settling, never got to test his theory that no new legislation was needed to deal with conglomerate mergers.

Opinion Divided

Professional economists appear to be as evenly divided as the lawyers on whether the ITT settlement was a "good" or a "bad" one. And that division of opinion merely returns the Senate Committee to the question of how it was arrived at.

In the end, what the Senate Committee is dealing with are reputations—of Kleindienst, Mitchell, McLaren and perhaps Flanigan (whom Anderson dubbed last week as the President's "Fixer Without Portfolio").

But the longer the hearings go, the more other reputations are at stake—liberal Democrats on the Judiciary Committee, for example, who, having launched themselves on an exciting course, are under pressure to make it worthwhile; and Jack Anderson, whose column has been increasingly in the limelight.

And reputations are important in an election year. Which tends to make the hearings run a little longer.